

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7044

BILL NUMBER: HB 1377

NOTE PREPARED: Jan 12, 2014

BILL AMENDED:

SUBJECT: Regulation of Home Warranties.

FIRST AUTHOR: Rep. Dermody

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State

Summary of Legislation: This bill has the following provisions:

- (1) Defines a home warranty as a contract under which the home warranty provider undertakes to indemnify the warranty holder against the cost of repairing or replacing a home appliance if repair or replacement is needed.
- (2) Prohibits a person from acting as a home warranty provider unless the person has obtained a license from the Department of Insurance (DOI) and deposited a surety bond, securities, or a sum of cash with the DOI
- (3) Prohibits the use of a home warranty form unless it has been submitted for review by the DOI.
- (4) Requires that a person, upon purchasing a home warranty, immediately be given a copy of the home warranty, and entitles the person to rescind the home warranty and receive a full refund within three business days after acknowledging receipt of a copy of the home warranty in writing.
- (5) Provides that a home warranty provider's obligation in connection with the repair or replacement of a home appliance cannot be limited to a specified dollar amount irrespective of the actual cost of repairing or replacing the home appliance.
- (6) Provides that, if a home warranty contains an arbitration clause, the warranty holder cannot be required to pay the cost of repairing or replacing a home appliance before the arbitration proceeding, and the arbitration must be held in the county in which the warranty holder resides.
- (7) Makes a violation of the law an unfair and deceptive act or practice in the business of insurance and a deceptive act that is actionable by the Attorney General.

Effective Date: July 1, 2014.

Explanation of State Expenditures: This bill could increase the workload of (1) the DOI to provide

oversight and regulation of home warranty providers and (2) the Attorney General to pursue actions against home warranty providers who commit unfair and deceptive acts. Increases in DOI workload are expected to be offset with the collection of licensing fees, and increases in Attorney General workload could be offset with the collection of penalties for unfair and deceptive acts.

Explanation of State Revenues: *Summary:* This bill could increase (1) DOI Fund revenue from licensing fees and (2) General Fund revenue from penalties assessed against violators of unfair and deceptive acts. Increases in revenue are indeterminable.

Additional Information: The bill requires individuals seeking to offer home warranty policies in the state to obtain licensure with the DOI and establishes a \$200 license fee. It is not known how many individuals will seek home warranty licensure. Therefore, revenue generated from fees is indeterminable, but could offset DOI regulation costs. Revenue collected from licensing fees would be deposited in the DOI Fund.

If this bill increases the number of unfair and deceptive acts discovered by the DOI, revenue to the General Fund could increase from civil penalties paid by violators. The penalty for engaging in an unfair and deceptive act is one or more of the following: (1) a civil penalty between \$25,000 and \$50,000 for each act or violation and (2) revocation of a person's license or certificate of authority if they knowingly engaged in an unfair or deceptive act.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOI, Attorney General.

Local Agencies Affected:

Information Sources: Tyler Ann McGuffey, DOI.

Fiscal Analyst: Bill Brumbach, 232-9559.